

IN THE MATTER OF  
THE APPLICATION OF  
JOANNA B. CROUCH  
(Variance)

BEFORE THE CECIL COUNTY  
BOARD OF APPEALS  
CASE NO.: 3624

OPINION

Application of Joanna B. Crouch (hereinafter, “Crouch” or the “Applicant”) for an eighteen (18) foot front yard setback and a twenty two (22) foot rear yard setback for construction purposes at real property located at 2066 Conowingo Road, Rising Sun, Maryland 21911 (the “Property”), which is designated as Parcel 269 on Tax Map 10, Sixth Election District, Cecil County, Maryland. The Property is presently zoned Rural Residential (“RR”), and is owned by Joanna B. Crouch.

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, variances, as defined in Article II, may be granted by the Board of Appeals. Paragraph 2 of Section 306 requires the Board to examine all facts of the case and render a decision based upon the following criteria:

A. The variance request is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.

B. Special conditions and circumstances exist that are peculiar to the land, buildings or structures involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

The Applicant appeared before the Board with her husband, Dale Crouch, and with her attorney, David Parrack, Esquire, Clower, Parrack & Seaman, P.A. Mr. Parrack testified that the Applicant currently has an application for rezoning pending before the Board of County Commissioners and, further, that the rezoning has been recommended for approval by the Planning Commission.

Mr. Parrack further provided some pertinent history of the Property. More specifically, Mr. Parrack testified that in or about 1963, the Property was an Amoco gas station; Mr. Parrack stated that the Property has been continuously used for motor vehicle repair since its use as a gas station ceased. Mr. Parrack further testified that Mr. Crouch has been operating here for approximately one and one-half (1.5) years. According to Mr. Parrack, the Property was formerly zoned Business General (“BG”); in 2011, however, the zoning was changed to RR. Mr. Parrack testified that the tax maps for the Property were wrong, and don’t show the Property or its location correctly. In this respect, the Property is bounded by Mountain Road to the West, and by tenant occupied residential housing to the East. Mr. Parrack stated that, on the Mountain Road side, the Property is deemed to have two (2) front yards under the Ordinance for setback purposes, being Mountain Road and Rising Sun Road.

Mr. Parrack testified that a sketch plat of the Property shows the existing 45' x 26' building structure; the Applicant would like to construct an addition that would allow for two (2) additional garage bays, which would give the Applicant a total of four (4) bays. Mr. Parrack testified that, had the gas station structure been built a couple of feet over back in 1963, then no variance would be required today. However, due to the location of the gas station structure, the Applicant is now in need of an 18' front yard setback variance, and a 22' rear yard setback variance, in order to construct the proposed addition. Mr. Parrack emphasized that his client did not own the Property in 1963, when the original structure was constructed, and that neither its location on the Property or the need for a variance are his client's doing.

Mr. Parrack testified that there is a fair amount of trees between the proposed addition and the tenant occupied property to the rear of the Property, that the land slopes up toward the tenant occupied property, and that the trees and slope provide a good buffer between the proposed addition and the residential dwellings.

Mr. Parrack requested that the variance be conditioned upon the Applicant gaining approval for the rezoning. Mr. Parrack was not sure whether the site will require a major or minor site plan; if a minor site plan is required, then Mr. Parrack stated his belief that under the Ordinance, the setbacks could be adjusted administratively by the Department of Planning and Zoning. If, however, a major site plan is required, then the Applicant would have to obtain a variance from setback requirements from the Board. Mr. Parrack testified that his client is being proactive in requesting the variance, with the idea that the variance will be in-hand if a major site plan is required.

Joanna Crouch also testified in support of the Application, and stated that the proposed addition should not cut in to the hill/slope to the rear of the Property, and would be constructed on flat ground.

There was no testimony in opposition to, or in favor of, the Application.

From the evidence presented the Board is satisfied that the criteria set forth in Section 306 has been met, and makes the following findings:

1. The variance request is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance. The gas station structure on the Property was constructed in 1963. Credible testimony demonstrates that, had the structure originally been constructed several feet to the side, then a variance probably would not be required in order to build the proposed addition. Moreover, a variance may not be required, depending upon whether the Applicant's construction plan necessitates a minor or major site plan. In summary, the Board finds that the location of the existing structure on the Property in relation to the rear property line, the requirement that this Property meet the front yard setback requirements on two sides of the parcel, the 2011 zoning change, and the uncertainty at this point as to whether a minor or major site plan and, therefore, this variance, will be required, give rise to a situation where, due to special circumstances, a literal enforcement of the provisions of the Ordinance would prevent the Applicant of the opportunity to construct the proposed addition, which is a right commonly enjoyed by other parties in the same zone.

2. Special conditions and circumstances exist that are peculiar to the subject land, buildings or structures involved, and that are not applicable to other lands,

buildings, or structures in the same zone. As set forth above, the location of the existing structure in relation to the rear and front property lines, the existing zoning, and the future determination as to whether a major or minor site plan will be required for the proposed construction, are such that the proposed addition cannot be built without a variance.

3. The granting of the variance will not confer upon the applicant special privileges that are denied by this Ordinance to other properties in the same zone. Other property in this zone is improved by additions to existing structures. The construction of the improvements proposed here will not confer any special privilege upon the Applicant.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

For the reasons stated, by unanimous vote, the Board finds that the criteria set forth in Section 306 has been met, and the application for an eighteen (18) foot front yard setback variance and for a twenty two (22) foot rear yard setback variance is, therefore, by unanimous vote, GRANTED.

11/27/2012  
Date

David Willis, Jr.  
David Willis, Chairperson

**BOARD OF APPEALS APPLICATION**  
**CECIL COUNTY, MARYLAND**

MEET. MONTH: Oct 2012  
FILE NO. \_\_\_\_\_

**THIS REQUEST IS FOR:**

- SPECIAL EXCEPTION RENEWAL ( )
- SPECIAL EXCEPTION ( )
- VARIANCE (X)
- APPEAL ( )

DATE FILED: 9/20/12  
AMOUNT PD: \$ 200.00 CH#1760  
ACCEPTED BY: OTB

Received

**A. APPLICANT INFORMATION**

Joanna B. Crouch  
APPLICANT NAME - PLEASE PRINT CLEARLY

2066 Conowingo Road                      Rising Sun    MD                      21911  
ADDRESS                                              CITY                      STATE                      ZIP CODE

Joanna B. Crouch, by [Signature]                      410-658-5050  
APPLICANT SIGNATURE                                              PHONE NUMBER

SEP 20 2012

Cecil County Office  
of Planning & Zoning

By DAVID H. PARLACK, THE ATTY.

**B. PROPERTY OWNER INFORMATION**

Joanna B. Crouch  
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

2066 Conowingo Road                      Rising Sun    MD                      21911  
ADDRESS                                              CITY                      STATE                      ZIP CODE

Joanna B. Crouch, by [Signature]                      410-658-5050  
PROPERTY OWNER SIGNATURE                                              PHONE NUMBER

By DAVID H. PARLACK, THE ATTY.

**C. PROPERTY INFORMATION**

2066 Conowingo Road, Rising Sun, MD 21911                      Sixth                      08-06005373  
PROPERTY ADDRESS                                              ELECTION DIST.                      ACCT. NUMBER

10                      7                      269                      19 & 20                      .228                      RR  
TAX MAP #                      BLOCK                      PARCEL                      LOT #                      #ACRES                      ZONE

**D. PURPOSE OF APPLICATION** - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

SEE ATTACHED SHEET  
18' Front Yard setback  
22' Rear Yard setback

**E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.**

**F. LAND USE DESIGNATION**

Is property in the Critical Area? \_\_\_\_\_ YES                      X NO

If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: \_\_\_\_\_

Is property in the 100 year Floodplain? \_\_\_\_\_ YES                      X NO

Is property an Agricultural Preservation District? \_\_\_\_\_ YES                      X NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

**G. PROVISION OF ZONING ORDINANCE:** Section 306

**H. SPECIAL EXCEPTION RENEWAL** - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

**I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME** - Please fill out the following information:

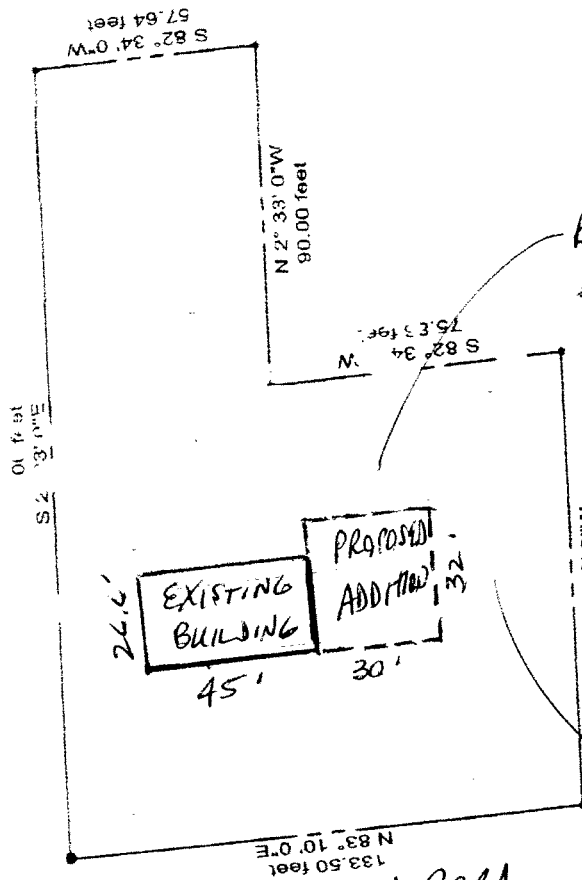
Will unit be visible from the road? \_\_\_\_\_ If yes, distance: \_\_\_\_\_

Will unit be visible from adjoining properties? \_\_\_\_\_ If yes, distance: \_\_\_\_\_

Distance to nearest manufactured home: \_\_\_\_\_ Size/Model/Year of Unit: \_\_\_\_\_

Number of units on property at present time: \_\_\_\_\_

09-18-2012  
1 inch=50 feet  
North Rotation=0 deg  
c:\pplite\crouch3.lpt



REAR YARD VARIANCE  
APPROXIMATELY 22' NEEDED

SIDE YARD VARIANCE  
APPROXIMATELY 18' NEEDED

RISING SUN ROAD

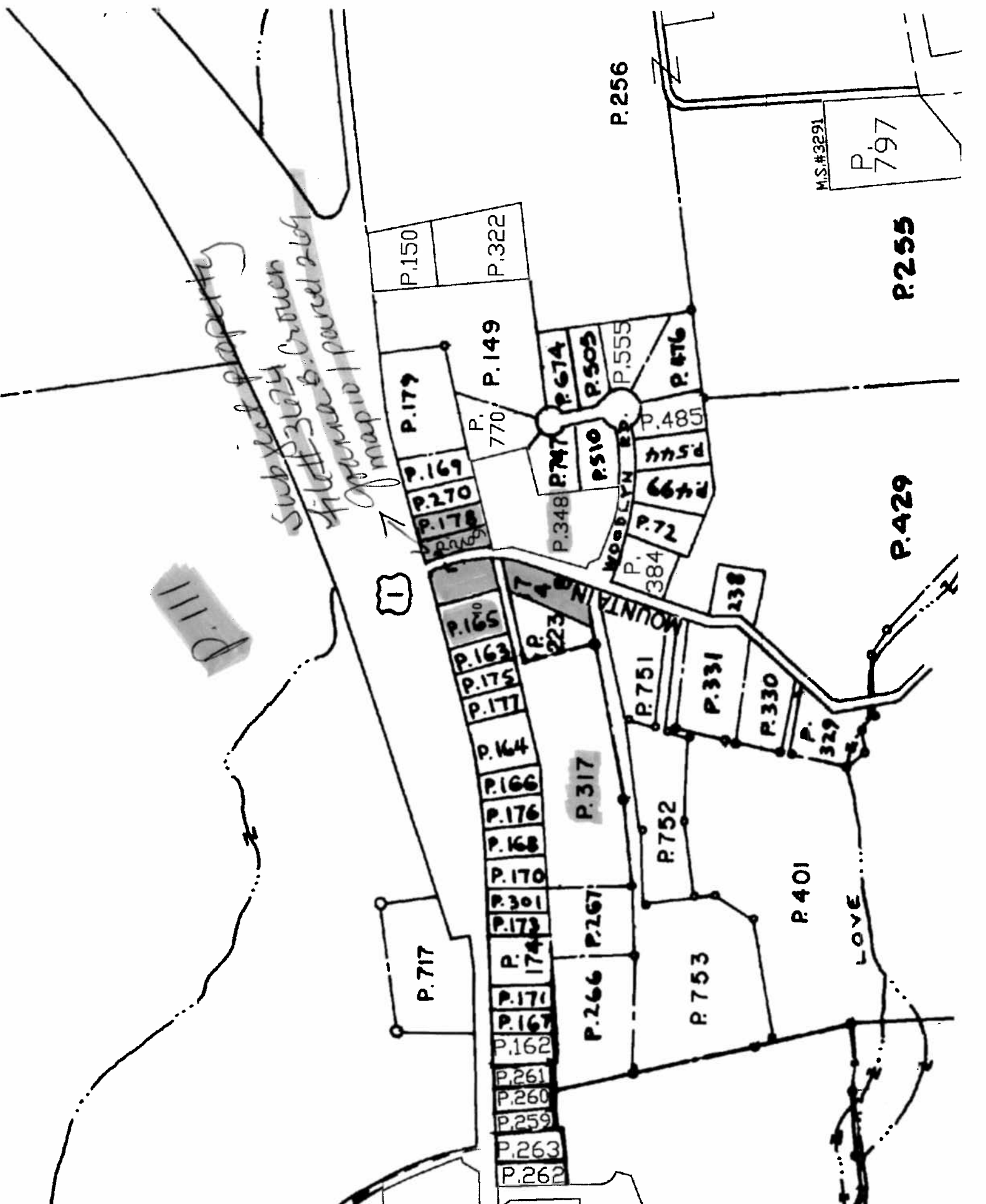
DOUBLE FRONTAGE LOT, 50'  
SETBACK FROM BOTH STREETS

Applicant seeks a variance from the yard requirements of the Ordinance; specifically, applicant seeks to construct a 30' x 32' addition to an existing building used for more than 50 years as a motor vehicle repair facility. The required yards are 50 feet front and 60 feet rear, which would require variances of approximately 18 feet on the front yard adjacent to a street and 22 feet in the rear, to locate the addition as shown on the attached sketch. The variances sought are the minimum needed to make possible the reasonable use of the land, which will permit business expansion and additional employment by adding two service bays for the business. The granting of the variance will not result in a use not permitted in the zone, will not be injurious to the neighborhood and will be in harmony with the general intent and purpose of the Ordinance.

Applicant is represented by, and notices or questions should be addressed to:

David H. Parrack  
226 East Main Street  
Elkton, MD 21921  
410-398-7400





P.111

Subsect Property  
File # 3024 Crown  
Map of parcel 264

1

MOUNTAIN

WOBLYN R.

LOVE

M.S.#3291

P.797

P.255

P.429

P.401

P.256

P.150

P.322

P.179

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